



**BILLING CODE:** 4910-9X

**DEPARTMENT OF TRANSPORTATION**

**Office of the Secretary**

**[OST Docket No. DOT-OST-2011-0170]**

**Notice of Submission of Proposed Information Collection to OMB**

**Agency Request for Renewal of a Previously Approved Collection: Disclosure of Code-Sharing Arrangements and Long-Term Wet Leases**

**AGENCY:** Office of the Secretary, Department of Transportation.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 this notice announces the Department of Transportation's (Department) intention to reinstate an Office of Management and Budget (OMB) control number as related to the *Disclosure of Code-Sharing Arrangements and Long-Term Wet Leases*. The growth in the use of code-sharing, wet-leasing, and similar marketing tools, particularly in international air transportation, led the Department on March 15, 1999, to adopt specific regulations requiring the disclosure of code-sharing arrangements and long-term wet leases by air carriers (U.S. and foreign) and ticket agents via oral, written, and internet communications. In a recent final rule published in the Federal Register on November 3, 2016, titled "Enhancing Airline Passenger Protections", the Department, among other things, amended the code-share disclosure regulation to require that carriers and ticket agents must disclose any code-share arrangements on their websites, including mobile websites and applications; clarify the format in which that information must be displayed;

and specify that verbal code-share disclosures should be made the first time a flight involving a code-share arrangement is offered to consumers or the first time a consumer inquiries about such a flight whether by telephone or in person conversations.

**DATES:** Written comments should be submitted by **[insert date 60 days after date of publication in the Federal Register]**.

**ADDRESSES:** You may submit comments (identified by DOT Docket Number OST-2011-0170) through one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Hand Delivery:* U.S. Department of Transportation, West Building Ground Floor, 1200 New Jersey Avenue, S.E., Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal Holidays. The telephone number is 202-366-9329.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, S.E., West Building, Room W12-140, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Daeleen Chesley, (202) 366-6792, [Daeleen.Chesley@dot.gov](mailto:Daeleen.Chesley@dot.gov), Office of the Assistant General Counsel for Aviation Enforcement and Proceedings (C-70), U.S. Department of Transportation, 1200 New Jersey Avenue, SE, Washington, DC, 20590.

**SUPPLEMENTAL INFORMATION:**

*OMB Control Number:* 2105-0537

*Title:* Disclosure of Code-Sharing Arrangements and Long-Term Wet Leases

*Abstract:* Code-sharing is the name given to a common airline industry marketing practice where, by mutual agreement between cooperating carriers, at least one of the airline designator codes used on a flight is different from that of the airline operating the aircraft. In one version of code-sharing, two or more airlines each use their own designator codes on the same aircraft operation. Although only one airline operates the flight, each airline in a code-sharing arrangement may hold out, market, and sell the flight as its own in published schedules. Code-sharing also refers to other arrangements, such as when a code on a passenger's ticket is not that of the operator of the flight, but where the operator does not hold out the service in its own name. Such code-sharing arrangements are common between commuter air carriers and their larger affiliates. In a wet lease situation, a leasing arrangement is made whereby the lessor provides both an aircraft and crew to a lessee dedicated to a certain route under either an agreement that lasts more than 60 days or under a series of such lease agreements that amount to a continuing arrangement lasting more than 60 days.

Although code-sharing and wet-lease arrangements can offer significant consumer benefits, they can also be misleading unless consumers know the identity of the airline operating the flight. The growth in the use of code-sharing and wet-leasing, particularly in international air transportation, led the Department to adopt specific regulations requiring the disclosure of code-sharing arrangements and long-term wet leases on March 15, 1999 (14 CFR part 257). More specifically, the rule requires carriers to provide information about their code-share relationships in written or electronic schedule

information provided by carriers to the public (e.g. the Official Airline Guide/OAG). The rule also requires carriers and ticket agents to disclose code-share information in written notice at the time of a ticket purchase. Further, the regulation requires those entities to tell prospective consumers in all oral communications that the transporting airline is not the airline whose designator code will appear on travel documents and to identify the transporting airline by its corporate name and any other name under which that service is held out to the public.

In 2010, to further enhance these consumer protections, Congress enacted Pub. L. 111-216, sec. 210 (August 1, 2010), which was codified as 49 U.S.C. 41712(c). Among other things, the statute requires ticket agents and air carriers (U.S. and foreign) to disclose in oral communication or in written or electronic communications (including on the internet), prior to the purchase of a ticket, the name of the air carrier providing the air transportation and, if the flight has more than one segment, the name of each air carrier providing the air transportation for each flight segment. The statute also requires ticket agents and air carriers (U.S. and foreign) that sell tickets on an Internet website to disclose the required information on the first display of their website following a consumer's search of a requested itinerary in a format that is easily visible.

In a recent final rule, Enhancing Airline Passenger Protections III (81 FR 76800, November 3, 2016), the Department clarified its code-share disclosure regulation to ensure that carriers and ticket agents disclose code-share arrangements in schedules, advertisements, and communications with consumers. The rule amended the Department's code-share disclosure regulation to codify the statutory requirement that

carriers and ticket agents must in a format that is easily visible to a viewer disclose any code-share arrangements on the first display of the website following itinerary search results; clarify that the requirement for code-share disclosures in flight itinerary search results and flight schedule displays includes information provided by airlines via mobile websites and applications; clarify the format in which that information must be displayed; and specify that verbal code-share disclosures should be made the first time a flight involving a code-share arrangement is offered to consumers or inquired about by consumers during telephone or in person conversations.

As most of these provisions are implementing the statutory requirement enacted in 2010, carriers and ticket agents should already be complying with most of the requirements.<sup>1</sup> The aspect of the provision which is new is the specification of *when* during a telephone or in-person booking process a carrier or ticket agent must disclose the code-share information, which may result in additional compliance costs for some carriers and ticket agents. Those additional costs would be borne by those carriers and ticket agents that currently do not present code-share information at the first mention of a flight during a reservation call or in-person booking. As such, these carriers and ticket agents may have slightly longer reservation calls and longer in-person bookings. However, the disclosure at a point during the information gathering and decision-making process was already required so the additional time, if any, would be minimal.

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<sup>1</sup> The regulated entities that have a website should already have the required information programmed in their systems and that information should already appear on their websites. Thus, the incremental costs to add the information to mobile websites and applications should be small. To the extent there are any costs, they could be minimized if any necessary changes were incorporated at the same time as another upgrade.

In addition to costs for additional agent time during some calls and in-person bookings, some respondents may have a slight increase in their training costs, as they modify their trainings to note that code-share information must be shared when the flight is first presented to the consumer.<sup>2</sup> These additional training costs are likely to be incurred only by those respondents which do not already present code-share information at the first mention of a flight.

A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid OMB Control Number. See 5 CFR 1320.5(a) and 1320.6.

This notice addresses the information collection requirements set forth in the Department's regulation requiring disclosure of code-share and wet-leases, 14 CFR 257. The reinstated OMB control number will be applicable to all the provisions set forth in this notice. The title, a description of the respondents, and an estimate of the annual recordkeeping and periodic reporting burden are set forth below:

*Title:* Disclosure of Code-Sharing Arrangements and Long Term Wet Leases in Flight Itineraries and Schedules, Oral Communications with Prospective Consumers, Ticket Confirmations, and Advertisements.

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<sup>2</sup> The costs are minimal if this change is incorporated into agent curricula during the same time as other updates and/or sent in an update bulletin via the carrier's/travel agent's intranet system.

*Respondents:* All U.S. air carriers, foreign air carriers, Global Distribution Systems (GDSs, formerly known as computer reservations systems), and travel agents doing business in the United States.

*Number of Respondents:* 5,031 (estimated 48 marketing carriers and 4983 travel agents/GDSs).

*Frequency:*

For transactions involving oral communications: 15 seconds per call (to reveal the code-share information) and an average of 1.5 calls per trip (a total of 22.5 seconds per respondent) for the approximately 25% to 39% (using 2016 Bureau of Transportation Statistic's ((BTS)) data) of itineraries that involve personal contact/phone call and a code-share itinerary.<sup>3</sup>

For transactions involving written and internet disclosure: The burden should be minimal to non-existent as many airlines are already required to submit certain code-share related information to BTS<sup>4</sup> and/or already have code-share information available on their websites.<sup>5</sup> In addition, the marketing airlines currently provide information about their code-share flights to the GDSs who, in turn, provide that information to travel agents. As the code-share information is integrated into the data provided by the airlines

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<sup>3</sup> Per BTS data, there were 932 million enplanements in 2016 (34% of these flights involve a one-way ticket and 66% involve round-trip travel). It is estimated that 20% of these travelers make a call to an airline or travel agent to book a ticket or obtain information about a flight and each traveler will only need to obtain the information once per travel itinerary. Of those travel itineraries, 25% to 39% involve a code-share flight in which an agent must reveal that information.

<sup>4</sup> Large U.S. carriers must provide BTS with information for the "Airline Passenger and Destination Survey." The reported information must include the name of the marketing carrier, as well as the operating carrier of the flight (which may be a regional or foreign carrier).

<sup>5</sup> For example, many "reporting" carriers (e.g. United Airlines) disclose on their websites on-time performance information for their domestic code-share flights.

to GDSs and travel agents, the code-share information is automatically displayed on the internet/computer, as well as on a printed version of an itinerary/ticket.

*Total Annual Burden:* Annual reporting burden for this data collection is estimated at 195,138 to 304,415- hours for all travel agents and airline ticket agents who have personal contact with a consumer. Most of this data collection is accomplished through travelers using highly automated computerized systems to make their air travel reservation(s) and the data is already available on the regulated entities websites and/or is programmed into their database/reservation systems.

**PUBLIC COMMENTS INVITED:** You are asked to comment on any aspect of this information collection, including (a) whether the proposed collection of information is necessary for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality, utility, and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information.

**AUTHORITY:** The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1:48.

Issued in Washington, DC on August 28, 2017.

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[FR Doc. 2017-18828 Filed: 9/11/2017 8:45 am; Publication Date: 9/12/2017]